

TAB A

states, a hearing is being held on AT&T's complaint. In the BellSouth applicant states in which the SWA Contract Tariff has become effective (i.e., Alabama, Kentucky, Mississippi, South Carolina), AT&T is preparing to file complaints concerning those tariffs.

3. In North Carolina, in accordance with the procedural schedule established by the North Carolina Commission, BellSouth submitted its comments in support of its tariff on July 16. A copy of that filing is included as Appendix A hereto.

4. On August 1, 2002, AT&T filed its Reply Comments, a copy of which is included as Appendix B hereto. In those Reply Comments, AT&T demonstrated that BellSouth's tariff is an impermissible growth tariff (Reply Comments at 6-9) and that BellSouth's alleged justification for the tariff -- to keep traffic on its network -- is a mere pretext (*id.* at 9-12). AT&T showed that BellSouth could meet these goals by providing a discount based on absolute volumes, but instead is impermissibly seeking to favor its BSLD long distance affiliate over "declining growth" IXC's (*id.*). AT&T also showed that this tariff provides no benefits to North Carolina consumers (*id.* at 20-21) and that the tariff fails to comply with various requirements under North Carolina rules (*id.* at 19-25).

5. Nowhere in the BellSouth North Carolina pleading does BellSouth state that its BSLD long distance affiliate cannot take advantage of this contract tariff. Indeed, I have held a number of discussions with BellSouth representatives regarding this tariff, and in those conversations, no one from BellSouth has ever stated that BSLD cannot take service from BellSouth under the contract tariff.

6. BellSouth's provision of service to BSLD under the SWA Contract Tariff would clearly violate the FCC's prohibition on growth tariffs and discriminate in favor of BSLD as a small but growing carrier and against large established IXC's such as AT&T that are experiencing declining growth in access minutes.

I declare under penalty of perjury that the facts stated herein are true and correct, to the best of my knowledge, information and belief.

/s/ Jeffrey A. King
Jeffrey A. King

August 5, 2002

Attachment 1

BEFORE THE
NORTH CAROLINA UTILITIES COMMISSION

FILED

JUL 16 2002

In the Matter of:

Clerk's Office
N.C. Utilities Commission

Tariff Filing by BellSouth Telecommunications,)
Inc. to Establish Contract Rates for Switched)
Access Rate Elements)

Docket No. P-55, Sub 1366

BELLSOUTH'S COMMENTS

BellSouth Telecommunications, Inc. ("BellSouth"), hereby files, pursuant to the Order Suspending Tariff and Seeking Further Comments, issued June 25, 2002, its Comments in support of the subject Tariff, and states the following:

1. The subject Tariff is the product of negotiations between BellSouth and Sprint. However, BellSouth has filed this switched access offering as a Tariff that would be available to provide discounts to all interexchange carriers ("IXCs") who choose to take advantage of this offer. Contrary to the assertions of AT&T, this Tariff is in no way discriminatory. Instead, this Tariff creates a discount of the otherwise available prices for switched access services on the basis of both the volume of services used and the increase in the volume of services used, and this discount is available to every IXC. Any similarly situated IXC can avail itself of the exact same discount.

2. The Tariff, and the subject discount proposal incorporated therein, must be considered in the context of the current market for switched access services. In the past two years, the price of switched access services in North Carolina has declined dramatically. In its Order Regarding Joint Stipulation (entered in Docket Nos. P-55, Sub 1013, and Sub 1161 and P-100, Sub 72 on July 24, 2000), the Commission approved the stipulation of BellSouth, AT&T and other parties to reduce switched access rates over a period of time from \$.063 per minute to

\$.02 per minute. As the Commission noted in that Order, BellSouth and AT&T submitted a Brief and Proposed Order in which they stated jointly that this reduction "will make North Carolina's access rate among the lowest in the BellSouth region . . . (Order Approving Joint Stipulation, p. 9).

3. At the same time, IXCs have available to them an unprecedented array of alternatives to purchasing switched access services. Of course, special access arrangements have long been available, and continue to be so. Beyond this, an increasing number of IXCs are providing long distance service by obtaining access either through the use of their own facilities or the facilities of carriers other than BellSouth. It is for this reason that in February of 2001, the FCC granted BellSouth pricing flexibility in the offering of certain switched access services.¹ Given the declining price of switched access service, and the increasing availability of competitive alternatives, BellSouth attempted--first, in its original negotiations with Sprint and more generally with this Tariff--to provide a financial incentive to IXCs to not only purchase switched access service from BellSouth, but to increase the amount of these purchases.

4. Again, although this Tariff grew out of negotiations with Sprint, it is available to any similarly situated IXC. Moreover, it is structured so that the benefits to carriers (i.e., the inducement to increase their purchase of switched access from BellSouth) will be available to all. Specifically, BellSouth has set the discount so that the greater the percentage of the increase over the baseline usage (which is set according to a formula that will be discussed below), the greater the discount. Setting the discount based, in part, upon the percentage of increase allows both large and small IXCs to benefit financially from increasing the amount of service that they purchase from BellSouth. That is, even a small IXC that is unable to purchase switched access

¹ Memorandum Opinion and Order, released February 27, 2001, FCC 01-76, Docket (CB/CP) No. 00-21 ("Pricing Flexibility Order").

in very large volumes can obtain a discount by increasing proportionately the amount of its purchases.

5. AT&T's contention that this Tariff is discriminatory is completely groundless. First, AT&T claims generally that this Tariff will discriminate against it as a large IXC. This contention is incorrect. The Tariff would base the discount on (1) the percentage of increase in services purchased multiplied by (2) the volume of services purchased (i.e., to the extent the purchased usage exceeds the baseline usage). Thus, if two IXCs increase their respective switched access usage by the same proportion, the IXC with the greater volume purchased will receive a greater discount.

6. AT&T has also argued that this Tariff is discriminatory because it will necessarily be unavailable to AT&T. Apparently, this contention is based on the fact that the volume of switched access services that AT&T has purchased from BellSouth in recent years has declined. However, this contention, too, is wrong. As described in the Tariff, discounts are given over the five year course of the contract based on the percentage of incremental increase in use beyond the baseline usage (Tariff, Original, p. 3). The baseline usage is determined by looking at the purchasing trend of the IXC over the past eighteen months and projecting this trend forward for the next twelve months. The discount is then based upon the percentage by which the IXC exceeds this baseline usage.

7. Thus, an IXC that has purchased switched access service from BellSouth in increasing amounts over the past eighteen months would have a baseline usage that would reflect a projected increase over the next year, i.e., its baseline usage for discount purposes would be higher than its current usage. If, however, a given IXC's purchase of switched access from BellSouth has declined over the past eighteen months, then this would be projected forward for

the next twelve months in order to arrive at a baseline usage figure that would be lower than the current usage. Thus, to obtain a discount in the first year, that IXC would simply need to maintain its current usage. Thus, the formula, if anything, would benefit the IXC whose purchase during this eighteen month has declined, but that purchases more switched access from BellSouth in the future, i.e., the IXC that exhibits the future purchasing decisions that the Tariff is intended to encourage.

8. Beyond this, AT&T's argument that the discounted Tariff offering is discriminatory appears to be based on its belief that the discount will be permanently unavailable to AT&T because AT&T's purchase of switched access service from BellSouth will decline perpetually. AT&T also seems to imply not only that this result is a given, but that this result is entirely outside of AT&T's control. The contention, however, could only be true if two factors existed: (1) if AT&T is currently purchasing the absolute maximum amount of switched access from BellSouth that it can purchase (i.e., if it is eschewing all other alternatives), and (2) if AT&T is so doomed to fail in the future competition for long distance customers that AT&T's need for access to serve these customers will unavoidably decrease. AT&T has certainly not represented in the context of this proceeding that either of these limiting factors exists.

9. In reality, the situation is simply that if AT&T anticipates that the amount of switched access that it purchases from BellSouth will decline in the future, then this is because AT&T has made a business decision to pursue other alternatives for access (and/or foresees only future market failures). Thus, AT&T's allegation that the Tariff is discriminatory is really nothing more than a complaint that BellSouth has not proposed a discount that suits AT&T's desire to both use BellSouth's switched access service less in the future and receive a discount on the declining amount of switched access that it does purchase. Again, the purpose of this Tariff

is to provide an incentive for IXC customers to remain on BellSouth's network and to increase their usage of BellSouth's switched network to serve their long distance customers. It is perfectly legitimate (in fact, "just and reasonable") for BellSouth to create this incentive for IXCs through the subject Tariff. If AT&T does not care to take advantage of the offered discount, this in no way renders the Tariff discriminatory. AT&T's decision should also not provide a basis for it to prevent Sprint (or any other similarly situated IXC) from accepting the offer.

10. In granting BellSouth's request for pricing flexibility, the FCC set forth the requirement that flexible pricing plans entered into on a contract basis must be available in addition to the special access prices that would otherwise be available. (Pricing Flexibility Order, ¶ 6). This requirement is to ensure that no customer of the LEC "that has been granted [pricing] flexibility [will] be required to pay more than it would if the flexibility had not been granted." (Id.). BellSouth has complied with this requirement in its federal filings, and it has done the same in this case. Even if AT&T chooses not to take advantage of the discounts available through the subject Tariff, it will continue to be able to take advantage of the declining switched access rates that are currently in effect, and to which it has stipulated, as referenced above.

11. After BellSouth submitted this Tariff, the Public Staff proposed certain conditions upon the approval of this Tariff, which are set forth in the Order (pp. 2-3). BellSouth has agreed to these conditions.² In the Order, the Commission subsequently directed BellSouth and AT&T to attempt to resolve their differences regarding this Tariff. AT&T has made a discount proposal that, in the opinion of BellSouth, entails rejecting the fundamental basis of the discount plan,

² It should also be noted that even if AT&T's concerns were legitimate, these concerns have largely been addressed by the Public Staff's proposed conditions, e.g., the requirement that the discount be made available to similarly situated IXCs (See Order, p. 2) addresses an issue that was raised in AT&T's Complaint (¶ 9).

and, instead, implementing a plan that would provide the greatest benefit to AT&T, while working to the disadvantage of its competitors, i.e., other IXCs.

12. Specifically, AT&T submitted to BellSouth a plan that would abandon the dual goals of retaining usage on the BellSouth network and inducing growth in the minutes of usage purchased by IXCs. Given the context in which AT&T's proposal was made, BellSouth does not consider it appropriate to reveal it in detail without the permission of AT&T. It will suffice to say, however, that the proposal by AT&T is such that AT&T would receive a tremendous benefit, while other competitive carriers having less volume of usage would receive substantially less benefit. Thus, AT&T has responded to BellSouth's attempt to develop a discount plan that would be available and useful to all carriers by proposing one that is entirely different in structure, and that is calculated to benefit AT&T disproportionately.

13. Although BellSouth believes that the Tariff should be approved as filed, if this Commission desires, BellSouth would be willing to withdraw the Tariff. If BellSouth did so, then it would agree to file its agreement with Sprint to this pricing plan as a contract service arrangement. By doing this, Sprint would have available to it the arrangement to which it and BellSouth have agreed, and any other similarly situated IXC that wishes the same arrangement could obtain this discount in the form of its own contract service arrangement with BellSouth. At the same time, BellSouth and AT&T could continue to attempt to negotiate some sort of a discount plan that would be acceptable to AT&T. If these efforts fail, then AT&T would certainly be able to pursue any appropriate procedural recourse at that time.

14. Again, BellSouth believes that the Commission should approve its Tariff. The Tariff is consistent with the rationale of the FCC's grant to BellSouth of pricing flexibility, it is a just a reasonable response to the current market for switched access services, it will provide a

potential benefit to all IXC's, and it is clearly not discriminatory. Thus, BellSouth's offer to withdraw the Tariff is not the course that BellSouth would prefer, but is only as an alternative to which BellSouth can agree if the Commission deems this approach appropriate.

WHEREFORE, BellSouth respectfully requests the entry of an Order approving the subject Tariff for the reasons set forth above.

Respectfully submitted, this 16th day of July, 2002.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on parties of record by U.S. mail, this the 16th day of July 2002.

Jean Thomas

454059

Attachment 2

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

FILED

AUG 01 2002

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Clerk's Office
N.C. Utilities Commission

**DOCKET NO. ^{P-55,}
~~P-100~~, SUB 1366**

In the Matter of: Tariff Filing by)
BellSouth Telecommunications, Inc.) AT&T's Reply Comments
To Establish Contract Rates for)
Switched Access Rate Elements)

AT&T'S REPLY COMMENTS

COMES NOW AT&T Communications of the Southern States, LLC ("AT&T") and pursuant to the Commission's July 25, 2002 Order Granting Petition to Intervene and Motion for Extension of Time, and June 25, 2002 Order Suspending Tariff and Seeking Further Comments, provides the following Reply Comments to BellSouth Telecommunications, Inc.'s ("BellSouth") comments filed July 16, 2002 ("BellSouth Comments") regarding BellSouth's revision to BellSouth's Intrastate Access Services Tariff ("Revised Tariff").

OVERVIEW

Regardless of the number of times BellSouth denies that its Revised Tariff is purely a "growth" tariff, the fact remains that the only way an IXC ever can take advantage of Revised Tariff's switched access discounts is by growing its volumes. Importantly, nowhere in its Comments does BellSouth deny this critical flaw.

Instead, BellSouth suggests two "what if" scenarios which "possibly" might allow an IXC with declining volumes ("declining growth" IXC) to obtain greater switched access discounts. However, both of these "what if" scenarios are just that --"what ifs"--and although theoretically possible, both are so remote that neither should be relied upon by the Commission to correct Revised Tariff's critical "growth" flaw.

With respect to justification for Revised Tariff, BellSouth asserts that the tariff must be considered in the context of the "current market for switched access services."¹ After acknowledging that intrastate switched access rates already have "declined dramatically" during the last two years in North Carolina, BellSouth argues that these reductions have not been large enough to persuade IXCs not to use their own facilities or the facilities of other carriers to provide intrastate switched access services.² Thus, BellSouth concludes that it must have the ability to further reduce its intrastate switched access rates through Revised Tariff in order to provide "a financial incentive to IXCs to not only purchase switched access services from BellSouth, but to increase these purchases."³

Stripped of all rhetoric, BellSouth's sole justification for Revised Tariff is its alleged need to keep traffic on its network--plain and simple. However, if this really were the case, logically BellSouth would be proposing

¹ BellSouth Comments at p. 1.

² Id. at pp. 1-2.

³ Id. at p. 2.

discount arrangements for all IXCs (especially for those IXCs with the largest—although declining—volumes) in order to keep these large volumes on BellSouth's network. Because Revised Tariff neither recognizes nor rewards "declining growth IXCs," BellSouth's justification is counter-intuitive and thus clearly suspect.

The more logical justification is that BellSouth seeks approval of Revised Tariff in order to camouflage unlawful discrimination in favor of its affiliated IXC company, BellSouth Long Distance, Inc. ("BSLD"). In this respect, as more fully discussed below, previously both the Federal Communications Commission ("FCC") and the Texas Public Utility Commission determined that switched access "growth" tariffs, similar to Revised Tariff, are unlawful in that such tariffs allow Bell Operating Companies ("BOC's") to improperly discriminate in favor of the BOC's "low volume" affiliated IXC company.

Relative to further review of such "growth" tariffs, on May 17, 2002, BellSouth filed a "growth" tariff with the FCC regarding discounts for interstate switched access rates ("BellSouth's FCC Tariff").⁴ AT&T has raised significant concerns regarding this tariff in the context of BellSouth's pending application for approval to provide interLATA services in Alabama,

⁴ BellSouth Telecommunications, Inc. F.C.C. Tariff No. 1, Section 26, BellSouth SWA Contract Tariff, Original p. 26-1 et seq (eff. May 18, 2002.). A copy of this tariff is attached hereto as Exhibit A and incorporated herein by this reference. Under the FCC's Pricing Flexibility Rules (See Footnote 24 for cite), BellSouth's FCC Tariff automatically became effective the day after filing (without prior FCC review or approval).

Kentucky, Mississippi, and North and South Carolina, which the FCC is in the process of reviewing.⁵

Revised Tariff deserves the "clearly suspect" label not only because of its illogical construction, but also because BellSouth has not proved (or even argued) that it will have any positive impact on North Carolina consumers. In fact, there is no mention whatsoever in BellSouth's Comments as to what impact Revised Tariff will have on North Carolina consumers—good or bad. Thus, as the record currently stands, the only benefit to Revised Tariff is protection of BellSouth's network and BellSouth's affiliated IXC company, BSLD.

Additionally, BellSouth also failed to address several other significant flaws regarding Revised Tariff which AT&T identified in its Complaint. These include BellSouth's failure to: (1) identify all "other" terms and conditions which may be "individually designed, priced, and negotiated" between BellSouth and an IXC; (2) justify BellSouth's "once only" cancellation policy regarding "contracts" entered into between BellSouth and an IXC; and (3) to

⁵ Comments of AT&T Corp., In Re: Joint Application by BellSouth Corporation, et al., for Authorization Under Section 271 To Provide In-Region InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina, pp. 43-51. CC Docket No. 02-150. (Filed July 11, 2002) and AT&T Declaration of Jeffrey A. King, Joint Application by BellSouth Corporation, et al., for Authorization Under Section 271 To Provide In-Region InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina, CC Docket No. 02-150. (Filed July 11, 2002).

comply with numerous other requirements of Commission Rule R9-4.⁶

Finally, given the numerous concerns raised by AT&T, BellSouth makes one final attempt to save Revised Tariff (or at least *de facto* application of Revised Tariff) by proposing that it "...would be willing to withdraw Revised Tariff..." and instead file "its agreement with Sprint" as a "contract service arrangement" in the event the Commission so "desires."⁷ This is not acceptable given that BellSouth failed to establish the necessary prerequisites which must exist before a contract service arrangement may be utilized in lieu of a tariff⁸, and BellSouth has not proposed that the terms of a contract service arrangement would differ from Revised Tariff. In this respect, BellSouth's "growth" requirement remains a critical flaw, whether contained in Revised Tariff or a substitute contract service arrangement. Furthermore, it is unclear how BellSouth entering into "one contract service arrangement with one IXC" will have any significant impact on BellSouth's professed goal of maintaining traffic on its network.

⁶ AT&T Complaint for Anticompetitive Activity Pursuant to N.C.G.S. 62-73; 62-133.5(a)(iii) and (iv); 62-133.5 (d) and (e); and 62-134; and Commission Rule R1-9 and Motion to find Tariff Noncompliant and Suspend Tariff for Failure to Comply with N.C.G.S. 133.5 (a)(iii) and (iv); 62-133.5 (a) and (e) and Commission Tariff Rule R9-4, *In the Matter of BellSouth Telecommunications, Inc. Intrastate Access Services Tariff/New Section 26/BellSouth SWA Contract Tariffs*, Docket No. P-100, Sub 30, Docket No. P-55, Sub 1365.

⁷ BellSouth Comments at p. 6.

⁸ In particular, BellSouth's Price Regulation Plan for North Carolina allows for contract service arrangement(s) only for "situations in which services are not otherwise available through BellSouth's tariffs, as well as situations in which the services are available through BellSouth's tariffs, but to meet competition." Neither of these situations is applicable to Revised Tariff.

Accordingly, because (1) Revised Tariff still suffers from the critical "growth" flaw previously identified in AT&T's Complaint; (2) BellSouth's most recent justification for the tariff is illogical, counter-intuitive, and thus clearly suspect; (3) BellSouth has failed to prove that Revised Tariff will benefit North Carolina consumers; and (4) BellSouth has failed to comply with the tariff filing requirements of Commission Rule R9-4, Revised Tariff is anticompetitive and inconsistent with the public interest in violation of N.C.G.S. 133.5(a)(iii) and (iv), as well as various provisions of federal law. As a result, the Commission should not adopt Revised Tariff. Additionally, because BellSouth has failed to comply with the necessary prerequisites for entering into a contract service arrangement, the Commission also should reject BellSouth's proposal to substitute a contract service arrangement(s) for Revised Tariff.

**I. BELLSOUTH'S REVISED TARIFF REMAINS CRITICALLY
FLAWED BECAUSE IT CONTINUES TO DISCRIMINATE
AGAINST "DECLINING GROWTH" IXCS**

A. Revised Tariff Still Requires IXCs To Grow Their Volumes

In an attempt to explain the "benefits" of Revised Tariff, BellSouth states that "even a small IXC that is unable to purchase switched access in very large volumes can obtain a discount by *increasing proportionately* the amount of its purchases."⁹ This is exactly the kind of discrimination which makes Revised Tariff anticompetitive on its face. Because a small

⁹ BellSouth Comments at p. 3.[Emphasis Added].

IXC's volumes for the prior eighteen (18) months provide the baseline against which future growth percentages are compared for purposes of determining discounts, "start-up" IXCs like BellSouth's affiliated IXC company, BSLD,¹⁰ can obtain much larger discounts by growing their traffic volumes by only a fraction of the volumes generated by larger, yet "declining growth" IXCs.

With respect to this critical flaw, in BellSouth's first "what if" scenario, it states "...**if** two IXCs **increase** their respective switched access usages by the same proportion, the IXC with the greater volume purchased will receive a greater discount."¹¹ AT&T agrees with this conclusion on an absolute value basis. However, the problem is that in order to get **any** discount -- whether greater than, less than, or equal to discounts received by another IXC -- an IXC must proportionately **increase** its volumes, regardless of the size of its existing switched access volumes.

¹⁰ Public Staff's recommended change that BSLD not be allowed to obtain discounts under Revised Tariff for eighteen (18) months is not a viable solution given that such period only represents the initial "start-up" period for BSLD once it obtains Section 271 approval for North Carolina. Moreover, in terms of speculating about BSLD's current and future market power, "the BSLD of today" may not be the "BSLD of eighteen (18) months from now." In this respect, regarding whether eighteen (18) months is long enough to "shut out" BSLD from taking advantage of Revised Tariff, the Commission should consider what services (or bundled services) BSLD may offer in North Carolina in the near term—versus eighteen (18) months from now—and how those services may help BSLD grow its volumes in order to qualify for greater discounts under Revised Tariff. Put simply, too much remains unknown about BSLD and how it will operate in the future for the Commission to take much comfort from Public Staff's proposal that BSLD be "shut out" for eighteen (18) months. Not surprisingly, although BellSouth has the ability to eliminate this concern by agreeing that BSLD will never obtain discounts under Revised Tariff, to date BellSouth has made no such proposal.

¹¹ BellSouth Comments at p. 3. [Emphasis Added]

Because Revised Tariff requires that an IXC's volumes must **increase** in order to earn future discounts, it is possible (and probable given current market trends) that an IXC which is the largest driver of traffic volumes on BellSouth's network will pay switched access rates which are higher than the smallest driver of traffic volumes on BellSouth's network. This is patently discriminatory because the larger carrier is providing greater volumes to BellSouth and it, rather the smaller growth company, is driving the efficiencies of BellSouth's network. Accordingly, BellSouth's first "what if" scenario does nothing to eliminate the "growth" flaw of Revised Tariff. To the contrary, this scenario simply confirms AT&T's concern regarding the discriminatory "growth" aspects of this tariff.

In yet another attempt to convince the Commission to ignore Revised Tariff's "growth" flaw, BellSouth proposes a second "what if" scenario. Specifically, BellSouth states:

If, however, a given IXC's purchase of switched access from BellSouth has declined over the past eighteen months, then this would be projected forward for the next twelve months in order to arrive at a baseline usage figure that would be lower than the current usage. Thus, to obtain a discount in the first year, that IXC would simply need to maintain its current usage. Thus, the formula, if anything, would benefit the IXC whose purchase during this eighteen month has declined, **but that purchases more switched access from BellSouth in the future, i.e., the IXC that**

***exhibits the future purchasing decisions
that the Tariff is intended to encourage.¹²***

Again, BellSouth's own words support AT&T's concern that only by growing volumes can an IXC obtain discounts under Revised Tariff. It is irrelevant that a "declining growth" IXC's baseline decreases may provide it with an "easier path" to grow traffic volumes in the future—the point remains that the "declining growth" IXC still must *grow* its traffic volumes to obtain a discount. With respect to such growth projections, BellSouth wants this Commission to believe that an IXC which loses volumes one year, can suddenly grow volumes the next year. This is not characteristic of recent market trends, which BellSouth simply ignores, and which BellSouth also cavalierly suggests this Commission should ignore.

**B. BellSouth Should Be Providing Discounts To Its
Largest IXC Customers, And Not Just To Those IXCs With
"Percentage Increases"**

Additionally, if BellSouth's goal is to keep traffic on its network, then logically it should be providing ***greater*** discounts to "declining growth" IXCs (so that the decline can be stopped), rather than to those IXC's with growing volumes. If such reduced volumes are occurring because an IXC is moving traffic from BellSouth's network to its own or other networks, greater discounts would make it more cost effective for the IXC to leave its traffic on BellSouth's network. On the other hand, if such reduced volumes are

¹² Id. at 3-4 [Emphasis Added].

resulting because the IXC is losing customers to another IXC (which may have less volumes, but yet is receiving greater discounts from BellSouth and thus winning the price war), then again, logically BellSouth should be providing greater discounts to the IXC which is losing market share. Such greater discounts would allow the IXC to engage in more aggressive price competition by "recapturing" prior lost customers, plus also stop further customer defections. Again, this is how a logical BellSouth would operate in this second "what if" scenario if it truly wanted to retain traffic on its network.

Moreover, BellSouth could meet its "own network" goal by attending to the needs of both "declining growth" IXCs as well as "start-up" IXCs. This could be accomplished through a plan that applies varying degrees of discounts to an IXC's existing volumes. Then, if an IXC increases its volumes, a higher discount would be available based on the volume range where the IXC's volumes fall. Again, this is the way a company would operate if it were truly interested in maintaining full capacity and productive use of its facilities. Such company would attempt to "incent" **all** of its customers to use its facilities, especially, its largest customers.

Clearly, BellSouth has not attempted to meet the needs of all IXCs. Accordingly, the only logical conclusion that the Commission should draw from BellSouth's actions is that BellSouth really is not interested in keeping (and growing) traffic on its network, but instead only is interested in

protecting its affiliated IXC company, BSLD, by offering it a discount and separately structuring its tariff to discriminate against BSLD's largest IXC competitors.

C. BellSouth's Arguments Regarding AT&T's Objections to Revised Tariff Ignore the Anti-Competitive "Growth" Aspects of Revised Tariff

BellSouth next asserts that AT&T's complaints about Revised Tariff are improper because they stem from (1) AT&T moving traffic to "other alternatives" away from BellSouth's network; or (2) AT&T's belief that it will fail "in the future competition for long distance customers."¹³ This first point is particularly interesting given that for years BellSouth has advocated that "true competition" means IXCs like AT&T should build and/or utilize facilities other than BellSouth's network to serve their customers. Accordingly, if the upshot of Revised Tariff is BellSouth's belief that it should operate the only network in town, this is inconsistent with the current policies of this Commission, and should not be condoned. To the contrary, the Commission should ensure that AT&T and other IXCs which have invested in alternative networks should not be forced to remain on BellSouth's network in order to receive nondiscriminatory rates.

As to AT&T's future in the long distance market, there is a significant difference in understanding the current market trends in the telecommunications industry and appropriately monitoring those trends

¹³ Id. at 4.

(which AT&T is doing in objecting to Revised Tariff) and predicting "doom and failure" in the long distance market.¹⁴ Even though AT&T's long distance market share has declined in the last few years, it remains one of BellSouth's largest customers for switched access services and seeks only to be recognized when switched access reductions are offered by BellSouth.

Accordingly, AT&T should be able to obtain discounts from BellSouth that recognizes AT&T's significant support of BellSouth's network and its substantial access volumes. With respect to the recent "negotiations" between BellSouth and AT&T, BellSouth is correct that AT&T seeks greater discounts from BellSouth than those granted by BellSouth to "other competitive carriers having less volume of usage." But again, it is totally logical and intuitive that BellSouth should provide the greatest discounts to AT&T which is generating large volumes of traffic, and not to those IXC customers which generate small, but increasing, amounts of traffic. Once fully analyzed, it becomes abundantly clear—yet again—that the only reason BellSouth has taken this counter-intuitive, "growth" approach is not its "professed" attempt to keep traffic on its network, but rather to advantage its own affiliated IXC company, BSLD, by offering it a discount and separately structuring its tariff to discriminate against its largest IXC competitors.

¹⁴ Id.

II. SWITCHED ACCESS "GROWTH" TARIFFS HAVE BEEN EXPLICITLY PROHIBITED BY THE FEDERAL COMMUNICATIONS COMMISSION AND THE TEXAS COMMISSION

A. Federal Communications Commission

In 1996, the FCC recognized that one of the most direct and harmful ways that a BOC can discriminate against IXCs in favor of its affiliated IXC company is by offering such affiliate preferential rates. As the FCC stated:

[I]f a BOC charges other firms prices or inputs that are higher than the prices charged, or effectively charged, to the BOC's Section 271 affiliate, then the BOC could create a 'price squeeze'...[that] may allow the BOC affiliate to win customers even though a competing carrier may be a more efficient provider in serving the customer.¹⁵

To prevent such discrimination, Section 272(c)(1) of the Telecommunications Act of 1996¹⁶ established an ***unqualified prohibition*** against discrimination by a BOC in its dealings with its Section 272 affiliate and unaffiliated entities.¹⁷ "A BOC must provide to unaffiliated entities the same goods, services, facilities, and information that it provides to its Section 272 affiliate at the same rates, terms and conditions."¹⁸

¹⁵ *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Telecommunications Act of 1943, as amended*, First Report and Order, FCC 96-489, CC Docket No. 96-149 (released December 24, 1996), at ¶ 12 ("Non-Accounting Safeguards Order").

¹⁶ Pub. L. No. 104-104, 110 Stat. 56 (1996), as codified at 47 U.S.C. § 151, et seq. ("1996 Act").

¹⁷ *Non-Accounting Safeguards Order* at ¶ 197.

¹⁸ *Id.* at ¶ 202.

Moreover, Section 272(e)(3) expressly "require[s] the BOC's to charge nondiscriminatory prices" for telephone exchange services and exchange access.¹⁹ The FCC has ruled that this subsection "requires that a BOC must make volume and term discounts available on a nondiscriminatory basis to all unaffiliated interexchange carriers."²⁰ The Non-Accounting Safeguards Order recognized that "a BOC may have an incentive to offer tariffs that, while available on a nondiscriminatory basis, are in fact tailored to its affiliate's specific size, expansion plans, or other needs."²¹ Accordingly, rates and discounts that appear to be facially neutral, may in fact have an unlawful, discriminatory impact.

Indeed for that reason, the FCC has explicitly observed, in the context of its review of interstate switched access service tariffs, that a BOC may not adopt tariff rates employing so called "growth" tariffs²² because such discounts inevitably will favor a BOC's affiliated IXC company over established IXCs, thereby violating the BOC's Section 271 nondiscrimination obligations. The FCC explained that:

We are concerned that because affiliates will begin with existing relationships with end users, name recognition, and no subscribers, they will

¹⁹ *Id.* at ¶ 258.

²⁰ *Id.* at ¶ 257.

²¹ *Id.*

²² "Growth" discounts, as defined by the FCC are "pricing plans under which the incumbent LEC's offer reduced per-unit access services prices for customers which commit to purchase a certain percentage above their past usage, or reduced prices based on growth in traffic placed over an incumbent LEC's network." *Access Charge Reform*, Notice of Proposed Rulemaking, FCC 96-488, CC Docket No. 96-262 (released Dec. 24, 1996) ("*Access Charge Reform NPRM*" ¶ 192).

grow much more quickly than existing IXCs and other new entrants. Thus, incumbent LECs could circumvent the nondiscrimination provisions of Section 272 by offering growth discounts for which, as a practical matter, only their affiliates could qualify.²³

Based on these concerns, and after giving the BOCs an opportunity to provide an economic justification for such growth discounts, the FCC prohibited their use in interstate switched access services tariffs:

The Commission tentatively decided not to permit growth discounts in the *Access Reform NPRM*, because they create an artificial advantage for BOC long distance affiliates with no subscribers, relative to existing IXC's and other new entrants. The Commission also invited parties to comment on whether growth discounts would enhance the development of competitive access markets.

None of the parties supporting growth discounts explains why growth discounts enhance the development of competitive access markets...***Without any affirmative benefit to growth discounts presented in the record before us, we have non basis for allowing such discounts.***²⁴

Accordingly, it is apparent that "growth" discounts, like other facially neutral tariff provisions that have a discriminatory impact in their application, are prohibited by the nondiscrimination requirements of

²³ *Id.*

²⁴ See *Access Charge Reform*, Fifth Report and Order, FCC 99-206, CC Docket No. 96-262, (released Aug. 27, 1999) (citations omitted, emphasis added) ("*Access Charge Reform Fifth Report and Order*") ¶¶ 134-135.

Section 272.²⁵ Yet irrespective of the FCC's recent prohibitions regarding "growth" tariffs, on May 17, 2002, BellSouth filed such a "growth" tariff with the FCC regarding discounts for interstate switched access rates.²⁶

Because the FCC's Pricing Flexibility Rules²⁷ allowed BellSouth's tariff to become effective the next day after filing, the tariff became effective on May 18, 2002. However, the tariff was never "approved" by the FCC and still is under scrutiny. As noted above, AT&T has objected to BellSouth's FCC Tariff in the context of BellSouth's application to provide interLATA services in Alabama, Kentucky, Mississippi, and North and South Carolina.²⁸

Clearly, BellSouth's Revised Tariff discriminates against large, established IXCs such as AT&T, in favor of BellSouth's affiliated IXC company, BSLD. BellSouth's Revised Tariff achieves this discriminatory effect by offering discounts based on percentage growth from a fixed customer base. This has a discriminatory impact on established IXCs because they start from a large customer base, which is difficult to grow annually a high percentage basis, and that base is, in fact, likely to shrink as BSLD enters the interLATA market in North Carolina. Moreover, gradually expanding local competition in North Carolina will mean that, for

²⁵ See *Non-Accounting Safeguards Order* ¶ 206.

²⁶ See footnote 4 for cite to BellSouth FCC Tariff.

²⁷ See footnote 24 for cite to FCC's Pricing Flexibility Rules.

²⁸ See footnote 5 for cite to AT&T's Comments regarding BellSouth's most recent Section 271 application.

some increasingly substantial number of calls, a competing local provider ("CLP")—and not BellSouth—will be the originating and/or terminating carrier, and access charges will be owed to various CLPs rather than to BellSouth.²⁹ In contrast, BSLD will begin with a very small customer base, and once it enters the interLATA market in North Carolina, it is likely to leverage BellSouth's monopoly customer base into a large share of the long distance market at the expense of established IXC's.³⁰

B. Texas Public Utility Commission

"Growth" discounts similar to Revised Tariff also have been rejected at the state level. In 1999, Southwestern Bell Telephone Company ("SWBT") filed a "growth" tariff for intrastate switched access services that provided a discount for each 10% increase in annual minutes of use ("MOUs"). The Texas Public Utility Commission revoked the tariff as being "discriminatory

²⁹ In this regard, BellSouth's proposal presents larger IXC's like AT&T which are attempting to achieve mass market commercial entry into BellSouth's local territory with a Hobson's choice. BellSouth's proposal means that for every local customer AT&T wins (i.e., for which it becomes the originating and terminating access carrier), AT&T increases the likelihood that it will diminish or lose its discount under BellSouth's proposal—that is, that it will pay more for exchange access provided by BellSouth in exchange for developing local competition.

³⁰ It also is revealing that BellSouth has not proposed similar growth-based "volume" discount plans for unbundled network elements or other goods and services for which CLPs such as AT&T might qualify. The leasing of unbundled network elements, particularly the UNE-Platform, also currently grows traffic on BellSouth's network. Yet CLPs (and IXC's) are provided no discounts for these volumes by BellSouth to "keep such traffic on BellSouth's network." Of course, if AT&T's theory is correct that BellSouth is not concerned about losing traffic on its network, but rather is seeking to obtain approval of Revised Tariff in order to camouflage (near or long term) discrimination in favor of its affiliated IXC company, BSLD, then obviously, BellSouth would have no interest in discounting network elements. This is because BellSouth already has a monopoly on local service (it already owns and supplies network elements to its own local customers), but it does not relative to interLATA services where it only is about to begin marketing its services against AT&T and other IXC's.

and anticompetitive.³¹ The Commission recognized that SWBT would be receiving Section 271 approval in the future and as a result, "SWBT will likely capture a significant share of interLATA long-distance traffic when it enters the long-distance market in Texas, and existing IXC's will suffer a corresponding decline in market share and SWBT switched-access MOU."³² In light of these findings, the Commission determined that the "market-share loss and switched-access MOU loss that existing IXC's will encounter as a result of SWBT's entry into the interLATA long distance market will make it impossible for them to achieve the maximum discounts" under the proposed tariff.³³ Accordingly, the Texas Commission determined that the tariff was "discriminatory and anticompetitive because [the] highest discount [was] not functionally available to all IXC's."³⁴

The Texas Commission's reasoning applies equally to BellSouth's Revised Tariff in North Carolina. As indicated above, the Texas Commission not only was concerned about more favorable discounts being available for SWBT's affiliated IXC company, but also about the impact which this new IXC would have on the ability of existing IXC's to grow market share. Thus, even assuming that Public Staff's recommendation that BellSouth affiliated

³¹ Order, *Complaint by AT&T Communications of the Southwest, Inc. Regarding Tariff Control Number 21303-Switched Access Optional Payment Plan (OPP)*, Docket No. 21392 (SOAH Docket No. 473-99-1963) (Texas PUC, March 1, 20002); ("Texas Growth Tariff Order").

³² *Id.* at p. 6.

³³ *Id.*

³⁴ *Id.* at p. 8.

IXC company, BSLD, not be allowed to take advantage of Revised Tariff for eighteen (18) months will minimize BellSouth's explicit "favoritism" towards BSLD, that still leaves the significant problem that "declining growth" IXCs like AT&T will have little opportunity to grow their market share, given BSLD's near term entry into the interLATA market in North Carolina. In this respect, even if BSLD cannot use Revised Tariff's discounts, it still will be allowed to take market share from AT&T, thus making it impossible for AT&T to grow volumes on BellSouth's network, and thus making it impossible for AT&T to obtain discounts under Revised Tariff. According, prohibiting BSLD from being able to take advantage of Revised Tariff will not solve the tariff's "growth" flaw.

Additionally, with respect to a tariff filed by BellSouth in Georgia which is similar to Revised Tariff, AT&T also complained about the "growth" flaw of BellSouth's Georgia tariff.³⁵ Yet rather than have another tariff suspended, on July 8, 2002,³⁶ BellSouth "delayed" implementation of its Georgia tariff. AT&T also has complaints regarding tariffs similar to Revised

³⁵ *AT&T Communications of the Southern States, LLC's Application for Leave to Intervene and Notice of Opposition*, dated July 1, 2002, Georgia Public Service Commission Docket No. 15533-U.

³⁶ BellSouth Letter to Delay SWA Access Tariff to August 5, 2002, dated July 8, 2002, Georgia Public Service Commission Docket No. 15533-U. This August 5, 2002, effective date has now been extended thirty (30) days until September 5, 2002.

Tariff pending in both Florida³⁷ and Tennessee.³⁸

BellSouth's Revised Tariff clearly violates the nondiscrimination obligations under Sections 272(c)(1) and 271(e)(3). The tariff's discounts provisions will give BellSouth's affiliated IXC company, BSLD, discounts which are not available, as a practical matter, to larger "declining growth" IXCs. Thus, Revised Tariff will permit BellSouth to leverage its monopoly control over switched access services and undermine competition in the interLATA market in direct contravention of the goals of Section 272.

**III. BELLSOUTH HAS NOT DEMONSTRATED THAT REVISED
TARIFF BENEFITS NORTH CAROLINA CONSUMERS**

Although BellSouth has the burden of proof regarding whether Revised Tariff benefits North Carolina consumers, and thus, whether Revised Tariff is in the public interest as required by N.C.G.S. 133.5(a)(iii) and (iv), it has failed to carry this burden. In this respect, there is not one allegation (much less a showing) by BellSouth that Revised Tariff will benefit North Carolina consumers. Rather, all BellSouth has told the Commission is that Revised Tariff will benefit BellSouth—by keeping traffic on its network. In particular, the record contains no BellSouth analysis as to why favoring "start-up" IXCs (which will be able to grow volumes), is better for

³⁷ *Petition of AT&T Communications of the Southern States, LLC, Requesting Suspension of and Cancellation of Switched Access Contract Tariff No. FL20002-02 Filed by BellSouth Telecommunications, Inc.*, filed July 16, 2002, Florida Public Service Commission Docket No. 020738-TP.

³⁸ *CLEC Coalition Petition to Suspend Tariff and to Convene a Contested Case Proceeding*, filed July 23, 2002, Tennessee Regulatory Authority Docket No. 02-00740.

North Carolina consumers than providing discount arrangements for larger IXCs like AT&T (which will not be able to grow volumes). Clearly, numerous provisions of the North Carolina General Statutes and the Commission's Rules require BellSouth to sustain its burden that Revised Tariff will benefit North Carolina consumers and, thus, Revised Tariff is in the public interest. As BellSouth has not done so, the Commission cannot make an affirmative finding regarding this important statutory mandate.

IV. BELLSOUTH'S REVISED TARIFF DOES NOT SPECIFY ALL OF THE TERMS AND CONDITIONS WHICH MAY BE "SPECIALLY" NEGOTIATED BETWEEN BELLSOUTH AND IXCS; IT DOES NOT ADEQUATELY EXPLAIN ITS "ONLY ONCE" CANCELLATION PROVISION; AND IT FAILS TO COMPLY WITH VARIOUS REQUIREMENTS OF COMMISSION RULE R9-4.

Although Revised Tariff's "growth" flaw requires significant review and rejection by the Commission, the tariff also contains many other flaws which BellSouth failed to discuss in its Comments. In particular, BellSouth's Executive Summary provided in support of Revised Tariff states "BellSouth SWA Contract Tariffs will enable BellSouth to offer its interexchange carrier (IXC) customers intrastate BellSouth SWA contract tariffs that are individually designed, priced, and negotiated based on the customer's needs."³⁹ However, nowhere in Revised Tariff does BellSouth specify what "other aspects" of such contracts may be "individually

³⁹ Revised Tariff Executive Summary (Attachment A) at p. 1.

designed, priced, and negotiated" between BellSouth and its IXC customers, and BellSouth did not address this flaw in its Comments.

The Commission should not tolerate such ambiguity, especially given that there are other issues relative to providing intraLATA switched access services which frequently lead to controversies between BellSouth and its IXC customers, including provisioning intervals and arrangements, blocking, and billing issues. As currently drafted, there is nothing in Revised Tariff which prohibits BellSouth and its IXC customers from agreeing to terms and conditions regarding the provision of switched access arrangements beyond the volume and discount arrangements discussed above.

Additionally, with respect to volume and discount arrangements, it is not clear whether the MOU minimum usage, usage ranges, and volume discount percentages contained in Section E.26.1.5.B of Revised Tariff apply only to a particular IXC, or whether **different** MOU minimum usage, usage ranges, and volume discount percentages could be negotiated by the "next" IXC which elects to "individually design, price, and negotiate" a contract with BellSouth. Again, BellSouth ignored this flaw in its Comments. This is a significant concern given that BellSouth may "lock" an IXC into a contract which the IXC cannot terminate except once—and then—only on the

anniversary date of the contract—and only then if several other usage conditions are met.⁴⁰

Accordingly, if different (better) MOU minimum usage, usage ranges and volume discount percentages are negotiated by the “next” IXC which negotiates with BellSouth, an IXC which already is under contract with BellSouth when the “next” contract is negotiated will not be able to “opt-in” to such different (better) contract until perhaps almost a year later. BellSouth provided no justification whatsoever for this provision in either Revised Tariff or in its Comments, particularly how such provision promotes traffic on BellSouth’s network. To the contrary, in terms of maintaining or growing traffic on its network, a more logical approach for BellSouth would be to allow any IXC already under contract to quickly transition to a “better” contract negotiated by “next” IXC.

Revised Tariff also fails to comply with numerous requirements of Commission Rule R9-4, including: (1) the failure to explain the reasons necessary for Revised Tariff, including full explanation of all of the

⁴⁰ Section E26.1.2I provides: Cancellation of BellSouth SWA Contract Tariff No. NC2002-01. 1. During the term period of BellSouth SWA Contract Tariff No. NC2002-01, a customer may cancel BellSouth Contract Tariff No. NC2002-01 and subsequently subscribe to another BellSouth SWA Contract Tariff only one time. 2. Cancellation of BellSouth Contract Tariff No. NC2002-01 and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. NC2002-01 and upon meeting one of the following conditions: a. During the first year of BellSouth Contract Tariff No. NC2002-02, the local switching usage achieved is 10 percent below the minimum usage; b. During the remaining years of BellSouth SWA Contract Tariff No. NC2002-01, the local switching usage is below the minimum usage. c. Local switching usage exceeds the discount usage cap. d. Customer adds CIC codes that are desired to become part of the volume discount tariff.

provisions of Revised Tariff as required by Commission Rule R9-4(c)(3); (2) failure to give a full explanation of the impact that Revised Tariff will have on existing IXC's as required by Commission Rule R9-4(c)(4); and (3) failure to give the estimated gross revenue and net revenue that the new offering will produce annually, including explaining how the estimate was obtained as required by Commission Rule R9-4(c)(5).⁴¹ Like many other concerns raised in AT&T's Complaint, BellSouth also failed to address these deficiencies in its Comments.

As is apparent from AT&T's concerns regarding the negative impact which Revised Tariff will have on "declining growth" IXC's, the Commission should not consider BellSouth's failure to comply with Commission Rule R9-4 to be merely an administrative deficiency. In adopting Rule R9-4, the Commission squarely placed the burden on a company seeking tariff approval to justify the needs and benefits of such tariff, as well as the impact that such tariff will have on other affected companies. Clearly, on all fronts, BellSouth has failed to meet its obligation to comply with Rule R9-4. In particular, Revised Tariff is inadequate as to what impact it will have on all IXC's, and BellSouth's Comments do not provide any meaningful supplemental information. It should also be noted that Revised Tariff can

⁴¹ Specifically regarding (3), on page 2 of BellSouth's cover letter to Revised Tariff, BellSouth indicated "N/A" for the required gross revenue impact and explanation. Yet on page 2 of the Executive Summary for Revised Tariff, BellSouth states that Revised Tariff "...is designed to retain the existing customers on BellSouth's switched network. The revenue impact of introducing BellSouth SWA Tariff No. NC2002-01 is entirely dependent upon the customer's performance."

be satisfied by just "growing" traffic on the BellSouth network. Thus, "increasing growth" IXC can still obtain discounts, even if it does not maintain the same rate of historical growth. Accordingly, as the record currently exists, the Commission cannot make an affirmative finding that BellSouth has complied with Rule R9-4.

V. BELLSOUTH HAS FAILED TO JUSTIFY ITS NEED TO PROVIDE DISCOUNTED SWITCHED ACCESS SERVICES AS A CONTRACT SERVICE ARRANGEMENT

More for shock value than anything else, BellSouth proposes withdrawal of Revised Tariff, and instead offers to provide switched access discounts as a contract service arrangement if the Commission so "desires."⁴² Clearly, this is not a option given that BellSouth has not meet the requirements for implementing such a contract service arrangement under the terms of its Price Regulation Plan.

In particular, under the terms of its Price Regulation Plan, BellSouth must establish either (1) the service it seeks to offer through a contract service arrangement is not available through any current BellSouth tariff, or (2) if available, BellSouth must offer a contract service arrangement in order to meet competition.⁴³ BellSouth has not met either of these requirements because BellSouth currently provides

⁴² BellSouth Comments at p. 6.

⁴³ If BellSouth already has the authority to offer discounted switched access services through a contract service arrangement, the Commission should question why BellSouth now seeks approval of Revised Tariff.

intrastate access services through its existing access services tariff and it has not established that a contract service arrangement is needed in order to meet any particular level of competition. With respect to this second requirement, BellSouth provided no details (only general platitudes) regarding access services "lost" to other carriers or the impact that such losses may have had on its overall access services business. Finally, BellSouth has not named any competitors which have captured BellSouth's access services customers.

Accordingly, BellSouth has not established that the provision of intrastate access is competitive in North Carolina. BellSouth must prove all of these requirements before the Commission seriously may consider BellSouth's offer to substitute a contract service arrangement in lieu of Revised Tariff. Having failed to provide such proof, the Commission should reject BellSouth's proposal to utilize a contract service arrangement as means of providing switched access services in North Carolina.

CONCLUSION

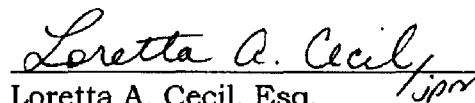
As established above, there is no real debate as to whether BellSouth's Revised Tariff is a critically flawed "growth" tariff, regardless of the number of times BellSouth asserts otherwise. The tariff improperly discriminates against "declining growth" IXC's in favor of IXC's with virtually no volumes. It was designed specifically to benefit BellSouth's own affiliated IXC company, BSLD, conveniently at a time when BellSouth's Section 271

application to provide interLATA services for North Carolina is pending at the FCC.

BellSouth's justification that it needs Revised Tariff in order to encourage IXCs to "keep their switched access traffic on BellSouth's network" is illogical and counter-intuitive, and ignores the significant negative impact which Revised Tariff will have on "declining growth" IXCs. Moreover, BellSouth has failed to prove that Revised Tariff will benefit North Carolina consumers. Regarding the Commission's tariffing rules, Revised Tariff also fails to meet many of the requirements of Rule R9-4. Finally, BellSouth also failed to justify any need to provide switched access discounts through contract service arrangements in lieu of Revised Tariff.

Accordingly, because Revised Tariff is anticompetitive and is inconsistent with the public interest and violates N.C.G.S. 133.5(a)(iii) and (iv), as well as various provisions of federal law, it should be not be approved by the Commission.

Respectfully submitted this the 1st day of August, 2002.


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CERTIFICATE OF SERVICE

I, Loretta A. Cecil, Attorney for AT&T Communications of the Southern States, LLC ("AT&T"), hereby certify that I have this day served by U.S. Mail AT&T's REPLY COMMENTS upon the parties of record.

This the 1st day of August, 2002.

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Linda B. Burell
Tariff Administrator

May 17, 2002

Transmittal No. 637

Secretary
Federal Communications Commission
Washington, D.C. 20554

Attention: Common Carrier Bureau

The accompanying tariff material, issued by BellSouth Telecommunications, Inc. (hereinafter BellSouth), and bearing Tariff F.C.C. No. 1, is sent to you for publication in compliance with Sections 61.49, 61.55, 61.58 (c) and 69.727 of the Commission's rules and the requirements of the Communications Act of 1934, as amended.

This filing is being submitted on one day's notice, pursuant to BellSouth receiving Phase I Pricing Flexibility for Switched Access Services in the qualifying Metropolitan Statistical Areas (MSAs).

Scheduled to become effective May 18, 2002, this publication consists of tariff pages as indicated on the following Check Sheets:

Tariff F.C.C. No.
1

Check Sheet No.
520th Revised Page 1
8th Revised Page 9.0.5

May 17, 2002

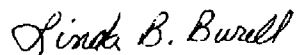
Page 2

The original transmittal letter and credit card payment in the amount of \$655.00 were provided to Capital Filing Specialist, LLC, for delivery to Mellon Bank, Pittsburgh, Pennsylvania on May 17, 2002. Acknowledgment of receipt of this transmittal is requested. A duplicate letter is enclosed for this purpose.

All official pleadings and related material concerning this filing may be directed to Mr. Richard Sbaratta, General Attorney, BellSouth Corporation, Suite 4300, 675 West Peachtree Street, Atlanta, Georgia 30375 or faxed to Mr. Richard M. Sbaratta at (404) 614-4054.

All correspondence and inquiries in connection with this publication should be addressed to Whit Jordan at BellSouth D.C., Inc., Suite 900, 1133 21st Street, N.W., Washington, D.C. 20036, (202) 463-4114.

Yours truly,

A handwritten signature in cursive script that reads "Linda B. Burell".

Linda B. Burell
Tariff Administrator

BELLSOUTH TELECOMMUNICATIONS, INC.
INTRODUCTION OF BELLSOUTH SWA CONTRACT TARIFF NO. 2002-01
DESCRIPTION AND JUSTIFICATION
TRANSMITTAL NO. 637

With this filing, BellSouth Telecommunications, Inc. (hereinafter "BellSouth") is revising its Access Services Tariff, F.C.C. No. 1 to add a new tariff section, Section 26 - BellSouth SWA Contract Tariffs. This filing also introduces BellSouth's first BellSouth SWA Contract Tariff No. 2002-01, included in Section 26, which is being filed on one-day's notice, pursuant to BellSouth receiving Phase I Pricing Flexibility for Switched Access Services in the qualifying Metropolitan Statistical Areas (MSAs).¹

BellSouth SWA Contract Tariff No. 2002-01 provides a volume and term discount plan with a 60-month contract term for selected BellSouth SWA services. BellSouth SWA Contract Tariff No. 2002-01 sets forth the MSAs in which the volume and term discount plan will be offered and also sets forth the BellSouth SWA services to which the plan applies. The rates and charges for the services included in BellSouth SWA Contract Tariff No. 2002-01 are as set forth in Section 6 of BellSouth's Tariff F.C.C. No. 1.

In order to take advantage of the volume and term discount plan in BellSouth SWA Contract Tariff No. 2002-01, customers must subscribe to the tariff within 30 days of the tariff's effective date. BellSouth SWA Contract Tariff No. 2002-01 will terminate on July 22, 2007.

¹ In the Matter of BellSouth Petition for Phase I Pricing Flexibility for Switched Access Services, CCB/CPD No. 00-21, Memorandum Opinion and Order, released February 27, 2001.

BELLSOUTH TELECOMMUNICATIONS, INC.
 BY: Operations Manager - Pricing
 29G57, 675 W. Peachtree St., N.E.
 Atlanta, Georgia 30375
 ISSUED: MAY 17, 2002

TARIFF F.C.C. NO. 1
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ACCESS SERVICE
 CHECK SHEET

The Title Page and Pages 1 to 22-27 and Supplement No.107 inclusive of this tariff are effective as of the date shown.

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2.1	39th	27.5	Original	71	6th
3	59th	27.6	5th	72	8th
3.1	6th	27.7	Original	72.1	5th
4	150th	28	6th	73	5th
4.1	4th	29	7th	74	7th
5	116th	30	2nd	74.1	5th
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5.1.1	15th	31.1	6th	75.1	8th
6	87th	32	7th	75.2	12th
6.1	25th	33	6th	75.2.1	1st
6.2	Original	34	6th	76	5th
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9	20th	38	8th	2-2	4th
9.0.0.1	Original	39	5th	2-3	Original
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9.0.3	6th	42	6th	2-6	1st
9.0.4	5th	43	9th	2-7	1st
9.0.5	8th*	44	7th	2-8	2nd
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10	1st	46	7th	2-9	Original
11	8th	47	2nd	2-10	Original
12	12th	48	3rd	2-11	Original
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13	14th	50	5th	2-12.0.1	7th
14	6th	51	8th	2-12.0.2	3rd
14.1	3rd	52	4th	2-12.1	14th
15	8th	53	4th	2-12.2	9th
16	3rd	54	8th	2-13	10th
17	12th	55	8th	2-13.1	1st
18	12th	56	5th	2-14	11th
18.1	4th	57	4th	2-15	13th
19	5th	58	4th	2-15.1	3rd
20	12th	59	7th	2-16	16th
21	12th	60	9th	2-16.1	Original
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22.1	3rd	63	3rd	2-18	6th
23	7th	63.1	3rd	2-18.1	5th
24	7th	64	4th	2-18.2	5th
25	9th	65	7th	2-18.3	5th
26	Original	66	3rd	2-18.4	2nd
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New or Revised Page

BELLSOUTH TELECOMMUNICATIONS, INC.
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29657, 675 W. Peachtree St., N.E.
Atlanta, Georgia 30375
ISSUED: MAY 17, 2002

TARIFF F.C.C. NO. 1
8TH REVISED PAGE 9.0.5
CANCELS 7TH REVISED PAGE 9.0.5

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24-10	1st	25-23	Original		
24-11	1st	25-24	Original		
24-12	1st	25-25	Original		
24-13	1st	25-26	Original		
24-14	1st	25-27	Original		
24-15	1st	25-28	Original		
24-16	1st	25-29	Original		
24-17	1st	25-30	Original		
24-18	1st	25-31	Original		
24-19	1st	25-32	Original		
24-20	1st	25-33	Original		
24-21	1st	25-34	Original		
24-22	1st	25-35	Original		
24-23	1st	25-36	Original		
24-24	Original	25-37	Original		
24-25	Original	25-38	Original		
24-26	1st	25-39	Original		
24-27	1st	25-40	Original		
24-28	Original	25-41	Original		
24-29	1st	25-42	Original		
24-30	1st	25-43	Original		
24-31	1st	25-44	Original		
24-32	Original*	25-45	Original		
24-33	Original*	25-46	Original		
24-34	Original*	25-47	Original		
24-35	Original*	25-48	Original		
24-36	Original*	25-49	Original		
24-37	Original*	25-50	Original		
24-38	Original*	25-51	Original		
24-39	Original*	25-52	Original		
24-40	Original*	25-53	Original		
25-1	Original	25-54	Original		
25-2	Original	25-55	Original		
25-3	Original	25-56	Original		
25-4	Original	25-57	Original		
25-5	Original	25-58	Original		
25-6	Original	25-59	Original		
25-7	Original	26-1	Original*		
25-8	Original	26-2	Original*		
25-9	Original	26-3	Original*		
25-10	Original	26-4	Original*		
25-11	Original	26-5	Original*		
25-12	Original	26-6	Original*		
25-13	Original				

*New or Revised Page

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24 - BellSouth Wire Center Information

24.3 BellSouth SWA Metropolitan Statistical Area Wire Centers

This section provides the Metropolitan Statistical Areas (MSAs) and associated wire centers in which the Company has received Phase I BellSouth SWA pricing flexibility pursuant to Subpart H of Part 69 of the Commission's Rules. Section 6 of this Tariff governs the offering of BellSouth SWA services in these MSAs.

24.3.1 BellSouth SWA MSAs

BellSouth SWA MSAs are those MSAs in which the Company has qualified for Phase I switched access pricing flexibility for common line, traffic sensitive switched access services, and the traffic sensitive components of tandem switched transport services.

State	Wire Center CLLI	MSA Name	MSA Code
AL	HLVIALMA	Montgomery	MTA
AL	MTGMAL10	Montgomery	MTA
AL	MTGMAL11	Montgomery	MTA
AL	MTGMAL12	Montgomery	MTA
AL	MTGMAL13	Montgomery	MTA
AL	MTGMALBI	Montgomery	MTA
AL	MTGMALDA	Montgomery	MTA
AL	MTGMALGM	Montgomery	MTA
AL	MTGMALMB	Montgomery	MTA
AL	MTGMALMT	Montgomery	MTA
AL	MTGMALNO	Montgomery	MTA
AL	PRVLALMA	Montgomery	MTA
AL	WTMPALMA	Montgomery	MTA

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24.3.1 BellSouth SWA MSAs (Cont'd)

State	Wire Center CLLI	MSA Name	MSA Code
FL	BLDWFLMA	Jacksonville	JSV
FL	FRBHFLFP	Jacksonville	JSV
FL	FTGRFLMA	Jacksonville	JSV
FL	GCSPFLCN	Jacksonville	JSV
FL	JCBHFLAB	Jacksonville	JSV
FL	JCBHFLMA	Jacksonville	JSV
FL	JCBHFLSP	Jacksonville	JSV
FL	JCVLFLAR	Jacksonville	JSV
FL	JCVLFLAV	Jacksonville	JSV
FL	JCVLFLBW	Jacksonville	JSV
FL	JCVLFLCL	Jacksonville	JSV
FL	JCVLFLED	Jacksonville	JSV
FL	JCVLFLFC	Jacksonville	JSV
FL	JCVLFLGH	Jacksonville	JSV
FL	JCVLFLIA	Jacksonville	JSV
FL	JCVLFLJJ	Jacksonville	JSV
FL	JCVLFLJT	Jacksonville	JSV
FL	JCVLFLKJ	Jacksonville	JSV
FL	JCVLFLLF	Jacksonville	JSV
FL	JCVLFLMT	Jacksonville	JSV
FL	JCVLFLNO	Jacksonville	JSV
FL	JCVLFLOW	Jacksonville	JSV
FL	JCVLFLRV	Jacksonville	JSV
FL	JCVLFLSB	Jacksonville	JSV
FL	JCVLFLSE	Jacksonville	JSV
FL	JCVLFLSJ	Jacksonville	JSV
FL	JCVLFLSK	Jacksonville	JSV
FL	JCVLFLSM	Jacksonville	JSV
FL	JCVLFLWA	Jacksonville	JSV
FL	JCVLFLWC	Jacksonville	JSV
FL	JCVLFLWT	Jacksonville	JSV
FL	JCVLFLZL	Jacksonville	JSV
FL	KYHGFLMA	Jacksonville	JSV
FL	MDBGFLPM	Jacksonville	JSV
FL	MNDRFLAV	Jacksonville	JSV
FL	MNDRFLLO	Jacksonville	JSV
FL	MNDRFLW	Jacksonville	JSV
FL	MXVFLMA	Jacksonville	JSV
FL	ORPKFLMA	Jacksonville	JSV
FL	ORPKFLRW	Jacksonville	JSV
FL	PNVDFLMA	Jacksonville	JSV
FL	STAGFLBS	Jacksonville	JSV
FL	STAGFLMA	Jacksonville	JSV
FL	STAGFLSH	Jacksonville	JSV
FL	STAGFLWG	Jacksonville	JSV
FL	YULEFLMA	Jacksonville	JSV

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24 - BellSouth Wire Center Information

24.3.1 BellSouth SWA MSAs (Cont'd)

State	Wire Center CLLI	MSA Name	MSA Code	
FL	DRBHFLMA	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFL17	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLAI	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLAM	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLAP	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLCR	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLCY	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLEB	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLHQ	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLJA	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLMA	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLMR	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLOA	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLOV	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLPL	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLSF	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLSG	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLSU	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLTB	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLTT	Miami-Ft Lauderdale	MFH	(3)
FL	FTLDFLWN	Miami-Ft Lauderdale	MFH	(3)
FL	HLWDFLHA	Miami-Ft Lauderdale	MFH	(3)
FL	HLWDFLMA	Miami-Ft Lauderdale	MFH	(3)
FL	HLWDFLPE	Miami-Ft Lauderdale	MFH	(3)
FL	HLWDFLWH	Miami-Ft Lauderdale	MFH	(3)
FL	HMSTFLEA	Miami-Ft Lauderdale	MFH	(3)
FL	HMSTFLHM	Miami-Ft Lauderdale	MFH	(3)
FL	HMSTFLNA	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFL97	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLAC	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLAE	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLAL	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLAP	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLBA	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLBB	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLBC	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLBR	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLCA	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLDA	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLDB	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLFL	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLGR	Miami-Ft Lauderdale	MFH	(3)
FL	MIAMFLHL	Miami-Ft Lauderdale	MFH	(3)

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24 - BellSouth Wire Center Information

24.3.1 BellSouth SWA MSAs (Cont'd)

State	Wire Center CLLI	MSA Name	MSA Code
FL	MIAMFLIC	Miami-Ft Lauderdale	MFH
FL	MIAMFLKE	Miami-Ft Lauderdale	MFH
FL	MIAMFLLD	Miami-Ft Lauderdale	MFH
FL	MIAMFLME	Miami-Ft Lauderdale	MFH
FL	MIAMFLNM	Miami-Ft Lauderdale	MFH
FL	MIAMFLNS	Miami-Ft Lauderdale	MFH
FL	MIAMFLOL	Miami-Ft Lauderdale	MFH
FL	MIAMFLPB	Miami-Ft Lauderdale	MFH
FL	MIAMFLPL	Miami-Ft Lauderdale	MFH
FL	MIAMFLQX	Miami-Ft Lauderdale	MFH
FL	MIAMFLRR	Miami-Ft Lauderdale	MFH
FL	MIAMFLSB	Miami-Ft Lauderdale	MFH
FL	MIAMFLSH	Miami-Ft Lauderdale	MFH
FL	MIAMFLSO	Miami-Ft Lauderdale	MFH
FL	MIAMFLUJ	Miami-Ft Lauderdale	MFH
FL	MIAMFLWD	Miami-Ft Lauderdale	MFH
FL	MIAMFLWM	Miami-Ft Lauderdale	MFH
FL	MIAMFLYJ	Miami-Ft Lauderdale	MFH
FL	MIANFLYI	Miami-Ft Lauderdale	MFH
FL	MIANFLPV	Miami-Ft Lauderdale	MFH
FL	MIANFLWK	Miami-Ft Lauderdale	MFH
FL	MIAPFLYO	Miami-Ft Lauderdale	MFH
FL	NDADFLAC	Miami-Ft Lauderdale	MFH
FL	NDADFLBR	Miami-Ft Lauderdale	MFH
FL	NDADFLGG	Miami-Ft Lauderdale	MFH
FL	NDADFLOL	Miami-Ft Lauderdale	MFH
FL	NIANFLPV	Miami-Ft Lauderdale	MFH
FL	OJUSFLTL	Miami-Ft Lauderdale	MFH
FL	PMBHFLCS	Miami-Ft Lauderdale	MFH
FL	PMBHFLDR	Miami-Ft Lauderdale	MFH
FL	PMBHFLED	Miami-Ft Lauderdale	MFH
FL	PMBHFLFE	Miami-Ft Lauderdale	MFH
FL	PMBHFLMA	Miami-Ft Lauderdale	MFH
FL	PMBHFLNP	Miami-Ft Lauderdale	MFH
FL	PMBHFLTA	Miami-Ft Lauderdale	MFH
FL	PRRNFLMA	Miami-Ft Lauderdale	MFH

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24.3.1 BellSouth SWA MSAs (Cont'd)

State	Wire Center CLLI	MSA Name	MSA Code
FL	EORNFLMA	Orlando	ORL
FL	GENVFLMA	Orlando	ORL
FL	LKMRFLMA	Orlando	ORL
FL	LKMRFLMF	Orlando	ORL
FL	LKMRFL01	Orlando	ORL
FL	ORLDFL1F	Orlando	ORL
FL	ORLDFL60	Orlando	ORL
FL	ORLDFLAP	Orlando	ORL
FL	ORLDFLCD	Orlando	ORL
FL	ORLDFLCL	Orlando	ORL
FL	ORLDFLMA	Orlando	ORL
FL	ORLDFLMB	Orlando	ORL
FL	ORLDFLMO	Orlando	ORL
FL	ORLDFLMT	Orlando	ORL
FL	ORLDFLOV	Orlando	ORL
FL	ORLDFLPC	Orlando	ORL
FL	ORLDFLPH	Orlando	ORL
FL	ORLDFLSA	Orlando	ORL
FL	ORLDFLSO	Orlando	ORL
FL	ORLDFLZZ	Orlando	ORL
FL	ORLEFLFE	Orlando	ORL
FL	ORLEFLGV	Orlando	ORL
FL	ORLPFLAP	Orlando	ORL
FL	OVIDFLCA	Orlando	ORL
FL	LYHNFLOH	Panama City	PNC
FL	PCBHFLNT	Panama City	PNC
FL	PNCYFLCA	Panama City	PNC
FL	PNCYFLDA	Panama City	PNC
FL	PNCYFLDQ	Panama City	PNC
FL	PNCYFLJL	Panama City	PNC
FL	PNCYFLMA	Panama City	PNC
FL	YNFNFLMA	Panama City	PNC

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24 - BellSouth Wire Center Information

24.3.1 BellSouth SWA MSAs (Cont'd)

State	Wire Center CLLI	MSA Name	MSA Code
GA	ACWOGAMA	Atlanta	ATL
GA	ALPRGAHE	Atlanta	ATL
GA	ALPRGAMA	Atlanta	ATL
GA	ALTNGACS	Atlanta	ATL
GA	ASTLGAMA	Atlanta	ATL
GA	ATLAGADD	Atlanta	ATL
GA	ATLAGAKH	Atlanta	ATL
GA	ATLBGABU	Atlanta	ATL
GA	ATLBGACL	Atlanta	ATL
GA	ATLNGAAD	Atlanta	ATL
GA	ATLNGAB7	Atlanta	ATL
GA	ATLNGABH	Atlanta	ATL
GA	ATLNGABU	Atlanta	ATL
GA	ATLNGACA	Atlanta	ATL
GA	ATLNGACD	Atlanta	ATL
GA	ATLNGACH	Atlanta	ATL
GA	ATLNGACS	Atlanta	ATL
GA	ATLNGADK	Atlanta	ATL
GA	ATLNGADL	Atlanta	ATL
GA	ATLNGADZ	Atlanta	ATL
GA	ATLNGAEB	Atlanta	ATL
GA	ATLNGAEL	Atlanta	ATL
GA	ATLNGAEP	Atlanta	ATL
GA	ATLNGAFP	Atlanta	ATL
GA	ATLNGAGC	Atlanta	ATL
GA	ATLNGAGR	Atlanta	ATL
GA	ATLNGAGX	Atlanta	ATL
GA	ATLNGAHP	Atlanta	ATL
GA	ATLNGAHR	Atlanta	ATL
GA	ATLNGAHY	Atlanta	ATL
GA	ATLNGAIA	Atlanta	ATL
GA	ATLNGAIC	Atlanta	ATL
GA	ATLNGALA	Atlanta	ATL
GA	ATLNGALH	Atlanta	ATL
GA	ATLNGAMA	Atlanta	ATL
GA	ATLNGAMQ	Atlanta	ATL
GA	ATLNGANW	Atlanta	ATL
GA	ATLNGAPF	Atlanta	ATL

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24.3.1 BellSouth SWA MSAs (Cont'd)

State	Wire Center CLLI	MSA Name	MSA Code
GA	ATLNGAPK	Atlanta	ATL
GA	ATLNGAPP	Atlanta	ATL
GA	ATLNGAPX	Atlanta	ATL
GA	ATLNGAQS	Atlanta	ATL
GA	ATLNGARM	Atlanta	ATL
GA	ATLNGASS	Atlanta	ATL
GA	ATLNGATH	Atlanta	ATL
GA	ATLNGATL	Atlanta	ATL
GA	ATLNGAWD	Atlanta	ATL
GA	ATLNGAWE	Atlanta	ATL
GA	ATLNGAWO	Atlanta	ATL
GA	BUFRGABH	Atlanta	ATL
GA	CHMBGAMA	Atlanta	ATL
GA	CLTHGAHS	Atlanta	ATL
GA	CMNGGAMA	Atlanta	ATL
GA	CNYRGAMA	Atlanta	ATL
GA	CVTNGAMT	Atlanta	ATL
GA	DGVLGAIA	Atlanta	ATL
GA	DGVLGAMA	Atlanta	ATL
GA	DLLSGAES	Atlanta	ATL
GA	DLTHGAHS	Atlanta	ATL
GA	DNWDGAMA	Atlanta	ATL
GA	DNWDGAMC	Atlanta	ATL
GA	FRBNGAEB	Atlanta	ATL
GA	FYVLGASG	Atlanta	ATL
GA	HMPNGAJW	Atlanta	ATL
GA	JCSNGAMA	Atlanta	ATL
GA	JNBOGAMA	Atlanta	ATL
GA	LGVLGACS	Atlanta	ATL
GA	LLBNGAMA	Atlanta	ATL
GA	LRVLGAOS	Atlanta	ATL
GA	LTHNGAJS	Atlanta	ATL
GA	MCDNGAGS	Atlanta	ATL
GA	MNTIGAMA	Atlanta	ATL
GA	MRRWGAMA	Atlanta	ATL
GA	MRTTGAEA	Atlanta	ATL
GA	MRTTGAFS	Atlanta	ATL
GA	MRTTGAMA	Atlanta	ATL

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24 - BellSouth Wire Center Information

24.2.1 Full Service Relief MSA's (Cont'd)

State	Wire Center CLLI	MSA Name	MSA Code	(N)
GA	NRCRGAHK	Atlanta	ATL	(N)
GA	NRCRGAIS	Atlanta	ATL	(N)
GA	NRCRGAMA	Atlanta	ATL	(N)
GA	NRCRGAQD	Atlanta	ATL	(N)
GA	NRCRGATL	Atlanta	ATL	(N)
GA	PANLGAMA	Atlanta	ATL	(N)
GA	PLMTGAMA	Atlanta	ATL	(N)
GA	PTCYGAMA	Atlanta	ATL	(N)
GA	PWSPGAAS	Atlanta	ATL	(N)
GA	RSWLGADI	Atlanta	ATL	(N)
GA	RSWLGAMA	Atlanta	ATL	(N)
GA	RVDLGAMA	Atlanta	ATL	(N)
GA	SCCRGAMA	Atlanta	ATL	(N)
GA	SMNTGALR	Atlanta	ATL	(N)
GA	SMYRGACS	Atlanta	ATL	(N)
GA	SMYRGADT	Atlanta	ATL	(N)
GA	SMYRGAFE	Atlanta	ATL	(N)
GA	SMYRGAGP	Atlanta	ATL	(N)
GA	SMYRGAHR	Atlanta	ATL	(N)
GA	SMYRGAMA	Atlanta	ATL	(N)
GA	SMYRGAPF	Atlanta	ATL	(N)
GA	SMYRGAPK	Atlanta	ATL	(N)
GA	SNLVGAMA	Atlanta	ATL	(N)
GA	SNMTGALR	Atlanta	ATL	(N)
GA	SNSPGARR	Atlanta	ATL	(N)
GA	STBRGANH	Atlanta	ATL	(N)
GA	STLNGACS	Atlanta	ATL	(N)
GA	SYMRGAPF	Atlanta	ATL	(N)
GA	TUKRGADC	Atlanta	ATL	(N)
GA	TUKRGAMA	Atlanta	ATL	(N)
GA	VLRCGAES	Atlanta	ATL	(N)
GA	WDSTGACR	Atlanta	ATL	(N)
GA	CLMBGAAT	Columbus	COL	(N)
GA	CLMBGABV	Columbus	COL	(N)
GA	CLMBGACZ	Columbus	COL	(N)
GA	CLMBGADH	Columbus	COL	(N)
GA	CLMBGAFN	Columbus	COL	(N)
GA	CLMBGAMT	Columbus	COL	(N)
GA	CLMBGAMW	Columbus	COL	(N)
GA	CSSTGAMA	Columbus	COL	(N)
GA	HRBOALOM	Columbus	COL	(N)
GA	PHCYALFM	Columbus	COL	(N)
GA	PHCYALMA	Columbus	COL	(N)

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24 - BellSouth Wire Center Information

24.3.1 BellSouth SWA MSAs (Cont'd)

State	Wire Center CLLI	MSA Name	MSA Code	(N)
LA	BRSSLAMA	Lafayette	LAF	(N)
LA	CRNCLAMA	Lafayette	LAF	(N)
LA	DUSNLAMA	Lafayette	LAF	(N)
LA	LFYTLA17	Lafayette	LAF	(N)
LA	LFYTLAAT	Lafayette	LAF	(N)
LA	LFYTLACL	Lafayette	LAF	(N)
LA	LFYTLAMA	Lafayette	LAF	(N)
LA	LFYTLAVM	Lafayette	LAF	(N)
LA	OPLSLATL	Lafayette	LAF	(N)
LA	SCTTLAAF	Lafayette	LAF	(N)
LA	SMVLLAMA	Lafayette	LAF	(N)
LA	YNVLLAMA	Lafayette	LAF	(N)

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26 - BELLSOUTH SWA CONTRACT TARIFFS

26.1 BellSouth SWA Contract Tariff No. 2002-01

26.1.1 General Regulations

- (A) The start date of BellSouth SWA Contract Tariff No. 2002-01 is the first bill period following subscription to this contract tariff.
- (B) BellSouth SWA Contract Tariff No. 2002-01 shall terminate on July 22, 2007.
- (C) The regulations, terms, conditions and volume discounts provided herein shall apply to the customer's applicable BellSouth SWA usage and revenues achieved in the Metropolitan Statistical Areas (MSAs) defined below:
- (1) Montgomery, Alabama
 - (2) Jacksonville, Florida
 - (3) Miami/Ft. Lauderdale/Hollywood, Florida
 - (4) Orlando, Florida
 - (5) Panama City, Florida
 - (6) Atlanta, Georgia
 - (7) Columbus, Georgia
 - (8) LaFayette, Louisiana

The BellSouth wire centers associated with the above MSAs are as set forth in Section 24 of this Tariff.

- (D) A customer that is similarly situated may subscribe within a period of thirty (30) days following the effective date of BellSouth SWA Contract Tariff No. 2002-01.

26.1.2 Subscription Conditions

- (A) To subscribe to BellSouth SWA Contract Tariff No. 2002-01, the customer and the Telephone Company must execute a Letter of Agreement. The Telephone Company shall provide a Letter of Agreement for the customer to execute. The Letter of Agreement shall contain:
- (1) BellSouth SWA Contract Tariff Number
 - (2) Start and termination date of BellSouth SWA Contract Tariff
 - (3) Customer's Name and Billing Address
 - (4) Billing Account Number the credit will be applied
 - (5) Access Customer Name Abbreviations (ACNAs) and Customer Identifications Codes (CICs) to be included in the BellSouth SWA Contract Tariff
 - (6) BellSouth SWA Contract Tariff term (i.e., 36, 48 or 60 months)
 - (7) MSAs included in the BellSouth SWA Contract Tariff
 - (8) Minimum Usage Discount Table

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26 - BELLSOUTH SWA CONTRACT TARIFFS

26.1 BellSouth SWA Contract Tariff No. 2002-01 (Cont'd)

26.1.2 Subscription Conditions (Cont'd)

- (B) To subscribe to BellSouth SWA Contract Tariff No. 2002-01, the customer must have been a BellSouth SWA customer for the previous 18-months.
- (C) When the customer subscribes to BellSouth SWA Contract Tariff No. 2002-01, the customer must identify to the Telephone Company, all Access Customer Name Abbreviations (ACNAs) and Carrier Identification Codes (CICs) to be included in BellSouth SWA Contract Tariff No. 2002-01.
- (D) The customer must be the billing responsible party for all BellSouth SWA billing elements associated with the ACNAs and CICs included in BellSouth SWA Contract No. 2002-01.
- (E) Any additions after the Letter of Agreement is executed will be handled as a merger or acquisition or transfer of service regulations as set forth in 26.1.3 following.
- (F) A customer subscribing to BellSouth SWA Contract Tariff No. 2002-01 may not subscribe to any other BellSouth SWA Contract Tariff that contains services as set forth in (G) following.
- (G) The following BellSouth SWA services, provided in the MSAs as described in 26.1.1(C) preceding, will be used in determining the BellSouth SWA revenues that are eligible to receive the volume discount based on the established minimum local switching usage.
 - BellSouth SWA Common Transport Service
 - Facility Termination, per minute of use
 - Per Mile, per minute of use
 - DS3 to DS1 Multiplexer, per minute of use
 - DS1 to VG Multiplexer, per minute of use
 - Access Tandem Switching
 - Dedicated Tandem Trunk Port Service
 - Per DS0/VG trunk port required
 - Per DS1 trunk port required
 - DS1 to VG Channelization
 - Local Switching
 - Local Switching 1
 - Local Switching 2
 - Local Switching 3
 - Local Switching 4
 - Common Trunk Port Service
 - Per each Common Transport trunk termination, per minute of use
 - Dedicated End Office Trunk Port Service
 - Per DS0/VG trunk port required
 - Per DS1 trunk port required
- (H) A customer may not combine its local switching minutes of use with another customer, whether an individual, partnership, association or corporation, for the purpose of meeting the established minimum local switching usage, as set forth in 26.1.5(B) following.

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(N)

26 - BELLSOUTH SWA CONTRACT TARIFFS

(N)

26.1 BellSouth SWA Contract Tariff No. 2002-01 (Cont'd)

(N)

26.1.2 Subscription Conditions (Cont'd)

(N)

(I) Cancellation of BellSouth SWA Contract Tariff No. 2002-01

(N)

(1) Except as set forth in (3) following, during the term period of BellSouth SWA Contract Tariff No. 2002-01, a customer may cancel this BellSouth SWA Contract Tariff and subsequently subscribe to another BellSouth SWA Contract Tariff only one time.

(N)

(N)

(N)

(N)

(2) Cancellation of BellSouth SWA Contract Tariff No. 2002-01 and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. 2002-01 and upon meeting one of the following conditions:

(N)

(N)

(N)

(N)

(a) During the first year of BellSouth SWA Contract Tariff No. 2002-01, the local switching usage achieved is 10 percent below the minimum usage;

(N)

(N)

(N)

(b) During the remaining years of BellSouth SWA Contract Tariff No. 2002-01, the local switching usage is below the minimum usage.

(N)

(N)

(c) Local switching usage exceeds the discount usage cap.

(N)

(d) Customer adds CIC codes that are desired to become part of the volume discount contract tariff.

(N)

(N)

(3) During the term period of BellSouth SWA Contract Tariff No. 2002-01, a customer may cancel and subscribe to another Contract Tariff if Switched Access Pricing Flexibility is allowed in additional MSAs and the customer desires to participate.

(N)

(N)

(N)

(N)

(a) Cancellation of and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. 2002-01;

(N)

(N)

(N)

(b) The term of the new Contract Tariff will be the remaining years of BellSouth SWA Contract Tariff No. 2002-01.

(N)

(N)

(J) Rates and charges for the BellSouth SWA services included in BellSouth SWA Contract Tariff No. 2002-01 are as set forth in Section 6 of this Tariff. General regulations and ordering options for the BellSouth SWA services are as set forth in Section 2 and Section 5 of this Tariff.

(N)

(N)

(N)

(N)

26.1.3 Mergers and Acquisitions and Transfer of Service

(N)

(A) In the event the customer merges with another company or is acquired by another company; the following regulations will apply:

(N)

(N)

(1) The customer may elect to terminate subscription to BellSouth SWA Contract Tariff No. 2002-01.

(N)

(N)

(2) The customer may not combine revenues with the merged or acquired company's revenues for the purpose of obtaining volume discounts provided under BellSouth SWA Contract Tariff No. 2002-01.

(N)

(N)

(N)

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26 - BELLSOUTH SWA CONTRACT TARIFFS

26.1 BellSouth SWA Contract Tariff No. 2002-01 (Cont'd)

26.1.3 Mergers and Acquisitions and Transfer of Service (Cont'd)

(A) (Cont'd)

(3) The customer may continue subscribing to BellSouth SWA Contract Tariff No. 2002-01 for the duration of the contract term provided that the customer continues the subscription as if it were the same entity that existed prior to the merger or acquisition.

(B) If customer requests a transfer of service, pursuant to Transfer of Service regulations in Section 2 and Section 6 of this Tariff, the customer's subscription to BellSouth SWA Contract Tariff No. 2002-01 shall be terminated.

26.1.4 BellSouth SWA Revenue Volume Discounts

(A) Each year of BellSouth SWA Contract Tariff No. 2002-01 is defined as twelve (12) consecutive bill periods. For purposes of calculating the BellSouth SWA volume discounts, month 1 is the bill period after the beginning date of BellSouth SWA Contract Tariff No. 2002-01. For example, if the beginning date of BellSouth SWA Contract Tariff No. 2002-01 is June 6, 2002 bill period, then month 1 for purposes of calculating the BellSouth SWA volume discounts will be the July 6, 2002 bill period.

(B) The BellSouth SWA volume discounts provided herein will be determined during the first month after the end of each year of the BellSouth SWA Contract Tariff No. 2002-01. During the second month following the end of each year of the BellSouth SWA Contract Tariff No. 2002-01, the BellSouth SWA volume discounts will be applied via a credit to the customer's bill.

(C) True-up provisions will be made during the first quarter after the termination date of BellSouth SWA Contract No. 2002-01.

(D) The BellSouth SWA volume discounts are applicable to the usage sensitive and recurring revenues of the BellSouth SWA services as set forth in 26.1.2(G) preceding.

(E) The BellSouth SWA volume discounts specified in BellSouth SWA Contract Tariff No. 2002-01 will not be applied to taxes and nonrecurring BellSouth SWA revenues.

(F) The BellSouth SWA services to which the volume discounts provided under BellSouth SWA Contract Tariff No. 2002-01 apply shall only be subject to service assurance warranty regulations specified in 2.4.4(B) of this Tariff.

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26 - BELLSOUTH SWA CONTRACT TARIFFS

26.1 BellSouth SWA Contract Tariff No. 2002-01 (Cont'd)

26.1.5 BellSouth SWA Contract Tariff No. 2002-01 Volume Discount Plan

(A) BellSouth SWA Contract Tariff No. 2002-01 provides for annual volume discounts based upon annual local switching minutes of use (MOU) above a stated minimum usage for the MSAs as set forth in 26.1.1(C) preceding. Annual volume discounts will be determined by the local switching usage volume and the year of the contract in which the local switching usage volume is achieved.

(B) The minimum usage and the achievable volume discounts associated with the BellSouth SWA services, in the qualifying MSAs, are shown in the table below. Volume discounts are not applicable to any usage levels outside of the MOU usage ranges stated in table below:

Minimum Usage (MOU)	Usage Ranges (MOU)	Volume Discount Percentages				
		Year 1	Year 2	Year 3	Year 4	Year 5
3,385,697,632	3,385,697,632 - 3,453,411,585	7%	-	-	-	-
	>3,453,411,585 - 3,724,267,396	10%	15%	20%	-	-
	>3,724,267,396 - 4,401,406,922	15%	20%	25%	30%	35%

(C) The annual local switching usage included in BellSouth SWA Contract Tariff No. 2002-01 eligible for volume discount is determined by subtracting the minimum usage from the achieved local switching usage for each year.

(D) Dividing the annual local switching usage eligible for volume discount for a given year of BellSouth SWA Contract Tariff No. 2002-01 by the minimum local switching usage will develop the usage factor.

(E) A usage factor (greater than zero) will be applied to the eligible BellSouth SWA revenue generated by the BellSouth SWA services identified in 26.1.2(G) preceding. This calculation produces the annual revenue eligible for discount.

(F) The discount percent achieved, as set forth in (B) preceding, is based upon the minimum usage required, the usage factor achieved and the term year.

(G) The volume discount received for a given year under BellSouth SWA Contract Tariff No. 2002-01 is determined by multiplying the eligible BellSouth SWA revenue times the discount factor achieved.

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26 - BELLSOUTH SWA CONTRACT TARIFFS

26.1 BellSouth SWA Contract Tariff No. 2002-01 (Cont'd)

26.1.5 BellSouth SWA Contract Tariff No. 2002-01 Incentive Plan Cont'd)

(H) Following is an example of how the annual BellSouth SWA volume discount will be determined.

BellSouth SWA Contract Tariff No. 2002-01 Volume Discount Calculation

Customer Information

Customer subscribed to a five year BellSouth SWA Contract Tariff No. 2002-01 and is in the 4th year of the contract term. The customer's local switching minimum usage is 5,000,000,000 minutes of use. The annual local switching usage for year 4 is 5,750,000,000 minutes of use and the eligible BellSouth SWA revenues for year 4 is \$25,000,000.

Year 4 Usage Eligible for Discount = Year 4 Usage - Minimum Usage

= 5.75B MOU - 5B MOU

= 750M MOU

Year 4 Usage Factor = $\frac{\text{Year 4 Annual Usage}}{\text{Minimum Usage}}$

= $\frac{750M \text{ MOU}}{5B \text{ MOU}}$

= .15

Year 4 Revenue Eligible for Discount = Year 4 Usage Factor X Year 4 eligible BellSouth SWA Revenue

= .15 X \$25,000,000

= \$3,750,000

Year 4 Volume Discount = Year 4 Revenue Eligible for Discount X Discount Factor

= \$3,750,000 X .30

= \$1,125,000
